



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMre13051201

[REDACTED]
Complainant,

v.

BECKMAN COULTER, INC.,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On May 28, 2013, [REDACTED] ("Complainant") filed a Complaint with the Commission against Beckman Coulter, Inc. ("Respondent") alleging discrimination on the basis of religion and sex in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

There are two issues presented before the Commission. The first issue is whether Respondent denied Complainant's request for a religious accommodation. In order to prevail, Complainant must show that: (1) he has a sincerely held religious belief that conflicted with a job requirement; (2) he informed Respondent of the conflict as well as his need for an accommodation; and (3) Respondent failed to provide the accommodation.

It is evident that Complainant holds a sincerely held religious belief that conflicts with his work hours. Moreover, it is undisputed that he informed Respondent of the conflict as well as his need for an accommodation. Further, it is clear that Respondent denied the request for an accommodation.

By way of background and at all times relevant to the Complaint, Complainant served as a worship



leader for Calvary Apostolic Church, located approximately 26 miles (approximately 32 minutes) from his job. As Calvary Apostolic Church has worship services at 6:30 pm on Tuesdays and Fridays, his position with the church requires him to arrive no later than 6:00pm to perform his duties. Respondent hired Complainant as a coordinator on or about December 5, 2012 and was assigned the 8 am through 5 pm shift which permitted him to attend services without issue. However, on or about January 18, 2013, Respondent assigned Complainant a new sales district with a work schedule of 9 am through 6 pm Monday through Friday.

On or about February 4, 2013, Complainant met with his supervisor and requested that he be permitted to leave an hour early on Tuesdays and Fridays to attend church services. Two days later, on or about February 6, 2013, Respondent informed Complainant that any changes in work schedule required approximately 30 days from the date of the request and that they would be unable to meet his needs. Ultimately, Complainant resigned from his employment on or about February 12, 2013 with an effective date of February 15, 2013 because of the inability to attend services. It is important to note that during this time, Respondent permitted a female coordinator to work a flexible schedule based around her educational pursuits.

Despite Respondent's assertions, there is sufficient evidence to believe that a discriminatory act occurred as alleged. Applicable law requires an employer or other covered entity to reasonably accommodate an employee's practices unless doing so would cause more than a minimal burden on the operations of the employer's business. Actions such as flexible scheduling, voluntary shift substitutions, and modifications may be necessary to accommodate an employee's religious beliefs. While Respondent asserts that it "tries to be as flexible as possible when aware of outside voluntary commitments," evidence shows that failed to show such flexibility with respect to Complainant's religious beliefs although it permitted a similarly-situated female coordinator to modify her schedule to attend classes after work. As such, probable cause exists to believe that Respondent violated the laws as alleged.

The second issue before the Commission is whether Respondent treated Complainant less favorably because of his gender. In order to prevail, Complainant must show that: (1) he is a member of a protected class; (2) he suffered an adverse employment action; (3) he was meeting Respondent's legitimate business expectations; and (4) similarly-situated female workers were treated more favorably under similar circumstances.

It is evident that Complainant is a member of a protected class by virtue of his gender and that he suffered an adverse employment action when he was constructively discharged from his employment because of his religious obligations. There is also sufficient evidence that he was meeting Respondent's legitimate business expectations and Respondent admits that it permitted a similarly-situated female coordinator to modify her schedule to accommodate her class schedule.

As stated above, Respondent permitted a similarly-situated female coordinator to work a flexible schedule to accommodate her class schedule while it prohibited Complainant from exercising such flexibility. Simply stated, evidence shows that Respondent treated a similarly-situated female

coordinator more favorably than Complainant under similar circumstances. As such, and based upon the aforementioned, probable cause exists to believe that an unlawful discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

August 27, 2014

Date

Akia A. Haynes

Akia A. Haynes, Esq.,
Deputy Director
Indiana Civil Rights Commission